IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 17349 of 2003

Between:

1 Shaik Mohd.Rafi, S/o.Syda Saheb, Councillor, Ward No.24,
Mangalagiri Municipality, Mangalagiri, Guntur Dist.
2 Kolli Kotaiah, S/o.Ramaiah, Councillor, Ward No.13,
3 Deepala Aruna Kumari, W/o.Naga Siva Ven- kata Kumar,

Councillor,Ward No.15,
4 Kolluru Manjula Devi, W/o.Mangeram Chakravarthy,
Councellor, Ward No.8, Mangalagiri Municipality,
Mangalagiri, Guntur Dist.
5 Remalla Sambasiva Rao, S/o.Chitt Babu,
Councellor, Ward No.28, Mangalagiri Municipality,
Mangalagiri, Guntur Dist.
6 Munugala Malleswara Rao,S/o.Subbarao, Councellor, Ward No.1,
7 Damarla Nageswara Rao, S/o.Rattaiah,
Councellor, Ward No.11, Mangalagiri Municipality,
Mangalagiri, Guntur Dist.
8 Ande Narasimha Rao, S/o.Somaiah,Councellor,Ward No.18,
9 Pendem Malleswara Rao, S/o.Veeranjaneyulu,Councellor,Ward No.6,

(All are councessors of Mangalagiri Municipality Mangalagiri, Guntur Dist)

..... PETITIONERS

AND

1 Government of A.P., rep.by its Principal Secretary, Municipal

Administration and Urban Development Department, Secretariat

Buildings, Hyderabad.
2 The Director of Municipal Administration, Hyderabad.
3 The Collector and District Magistrate, Guntur.

4 The Commissioner, Mangalagiri Municipality, Mangalagiri, Guntur Dist.

5 Natukula Ranga Rao, S/o. Subbaiah, aged about 60 years, 8th Ward,

D.No.1-1354, Mangalagiri, Guntur District.

6 Dr. Anam Satyanarayana Reddy, S/o. Venkata Reddy, aged about

60 years, 8th Ward, D.No.1-1261, Mangalagiri, Guntur District.

7 Bitra Veeranarayana, S/o. Venkataratnam, aged about 65 years,

11th Ward, D. No.8-131, Mangalagiri, Guntur District.

8 Dr. Kovetavarapu Ravindra, S/o. Venkata Subba Rao, aged about

40 years, 4th Ward, Mangalagiri, Guntur District.

9 Kolli Padmavati, W/o. Nageswara Rao, aged about 35 years,

20th Ward Councillor, D.No.10-79, Old Mangalagiri,

Mangalagiri, Guntur District.

10 N. Rathamma, W/o. N. Vasanta Rao, aged about 45 years,

12th Ward Councillor, Baptistpeta, D.No.5-578,

Mangalagiri, Guntur District.

11 Jonnadula Laxmi Perumalla Rao, S/o. Rajagopalam,

aged about 45 years, 5th Ward, D.No.8-137, Sharab Bazar,

Mangalagiri, Guntur District.

12 Bandi Veeranjamma, W/o. Veeranjaneyulu, aged about 55 years,

11th Ward, D.No.11-32(A), Varahalapeta, Old Mangalagiri,

Mangalagiri, Guntur District.

13 Koganti Subba Rao, S/o. Yelamanda, aged about 65 years,

11th Ward, D.No.11-357, Varahalapeta, Old Mangalagiri,

Mangalagiri, Guntur District.

14 Bitra Satyanarayana, S/o. Sreeramulu, aged about 35 years,

11th Ward, D.No.11-354, Varahalapeta, Old Mangalagiri,

Mangalagiri, Guntur District.

15 Bitra Sambaiah, S/o. Koteswara Rao, aged about 70 years,

10th Ward, Bitravariveedhi, Old Mangalagiri,

Mangalagiri, Guntur District.

16 Kandru China Venkataratnam, S/o. Veeranjaneyulu,

aged about 35 years, 11th Ward, D.No.8-62, Kandruvari Street,

Mangalagiri, Guntur District.

17 Kolli Siva Nageswara Rao, S/o. Sitaramaiah, aged about 55 years,

12th Ward, D.No.5-521, Wadlapudi Center, Mangalagiri,

Guntur District.

18 Goli Laxmana Swamy, S/o. Kotiratnam, aged about 68 years,

Bhargavapeta, D.No.8-333, 13th Ward, Mangalagiri, Guntur District.

19 Deepala Veeranjaneyulu, S/o. Venkateswarlu, aged about 55 years,

Bhargavapeta, 13th Ward, D.No.8-335, Mangalagiri, Guntur District.

20 Mohammed Iqbal Ahmed, S/o. J.M. Ibrahim, aged about 52 years,

Mosque Street, D.No.6-57, Mangalagiri, Guntur District.

21 S.B. Gupta, S/o. Narahari, aged 45 years, Councillor 9th Ward,

Mangalagiri Municipality, Mangalagiri, Guntur District.

22 Pallapu Pitchaiah, S/o. Venkateswarlu, aged 32 years,

Councillor, 23rd Ward, Mangalagiri Municipality, Mangalagiri,

Guntur District.

23 M. Leelavathi, W/o. Seeta Ramanjaneyulu, aged 32 years,

Councillor, 14th Ward, Mangalagiri Municipality, Mangalagiri,

Guntur District.

24 K. Vimala Kumari, W/o. Prakasa Rao, aged 40 years, Councillor,

4th Ward, Mangalagiri Municipality, Mangalagiri, Guntur District.

25 Krishna Veni, W/o. Kama Raju, aged 40 years, Councillor, 5th Ward,

Mangalagiri Municipality, Mangalagiri, Guntur District.

26 Ande Damodara Rao, S/o. Venkata Ratnam, aged 50 years,

Councillor, 17th Ward, Mangalagiri Municipality, Mangalagiri,

Guntur District.

27 Vutla Srimannarayana, S/o. Venkata Ratnam, aged 50 years,

Councillor, 16th Ward, Mangalagiri Municipality, Mangalagiri,

Guntur District.

28 Kurra Srinivasa Rao, S/o. Sambasiva Rao, aged 32 years, Councillor,

7th Ward, Mangalagiri Municipality, Mangalagiri, Guntur District.

(Respondents 5 to 20 impleaded as per Court order dated 28.10.2004 in WPMP No.26583 of 2003)

(Respondents 21 to 28 impleaded as per Court order dated 28.10.2004 in

WPMP No.23785 of 2003)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, more particularly one in the nature of Writ of mandamus by declaring the action of the 1st respondent in issuing the impugned Memo No.15284/A1/03-1, dated 16-8-2003 as highly illegal, arbitrary, unjust and violative of Article 243 ZG of Constitution of India and provisions of A.P. Municipalities Act, 1965 and principles of natural justice and consequently set aside the same.

Counsel for the Petitioners: MR.C.PRAKASH REDDY

Counsel for the Respondents 1 to 3: G.P. for Municipal Administration and Urban Development

Counsel for the Respondent 4: MR.SRINIVAS DAMMALAPATI

Counsel for the Respondents 5 to 20: MR. C.V. MOHAN REDDY

Counsel for the Respondents 21 to 28: MR. K.V. BHANU PRASAD

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.17349 OF 2003

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ORDER:

Though the interlocutory applications are listed for disposal, the writ petition was heard finally and is being disposed of. The petitioners are elected counsellors of Mangalagiri Municipality. They are aggrieved by the orders of the Government, the first respondent herein, in Memo No.15284/A1/03-1 dated 16.08.2003, which was passed purportedly in exercise of the powers under clause (i) of sub-section (2) of Section 59 of the A.P.Municipalities Act, 1965 (the Act, for brevity). The impugned order reads as under.

GOVERNMENT OF ANDHRA PRADESH

MUNICIPAL ADMINISTRATION URBAN DEVELOPMENT DEPARTMENT

Memo No.15284/A1/03-1. Dated:16-08-2003.

Sub: Mangalagiri Municipality – Name of Water Supply Scheme Filtration plant – Suspension of Council Resolution (CR) No. dated 21-04-2003 until further orders. Orders Issued.

Ref:- 1. From Collector & District Magistrate, Guntur Letter No.Cco/33/203

dated 13-08-2003.

2. From the Director of Municipal Administration Hyderabad letter No.14/5952/2003-G1 dated 13-08-2003.

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In exercise of the powers conferred under sub section (2) of Section 59 of Andhra Pradesh Municipalities Act, 1965, the Government hereby suspend the council resolution No.9 dated 21-04-2003 passed by the Mangalagiri Municipality until further orders.

2. The Director of Municipal Administration Hyderabad is requested to take immediate necessary action for renaming the Water Supply Scheme as Dr.M.S.S.Kotewara Rao Memorial project.

3. The Director of Municipal Administration, Hyderabad is requested to furnish the further report on the above issue immediately.

A.K.GOYAL

PRINCIPAL SECRETARY TO GOVERNMENT.

To

The Director of Municipal Administration, Hyderabad.

The Commissioner, Mangalagiri Municipality, Mangalagiri, Guntur Dist.

The Collector & District Magistrate, Guntur

SF/SC

FORWARDED BY ORDER

SECTION OFFICER

A perusal of the impugned order would show that the Government requested the second respondent to send a report in the regard to consider the matter as to whether resolution No.9 dated 21.04.2003 passed by Mangalagiri Municipality to name water supply scheme as “Smt.Kandru Kamala Krishna Jalala Manchineeti Pathakam”. Pending such consideration, the Government having regard to the law and order situation may be justified in suspending resolution No.9 dated 21.04.2003 until further orders. But in paragraph 2 of the impugned order, the Government also directed the second respondent to rename the water supply scheme as “Dr.M.S.S.Koteswara Rao Memorial Project”, which in effect amounts to cancelling the resolution of the Municipality. As per the provisions of Section 59 of the Act, before any resolution is cancelled, the Government is bound to issue notice to all concerned. The orders were passed, as seen in paragraph 2 of the impugned order, without complying with such mandatory requirement and therefore the impugned order cannot be sustained. The impugned order, for the above reasons, in so far as paragraph 2 is concerned, is set aside and the matter is remitted to the first respondent to consider the matter afresh by giving notice to all the petitioners herein and respondents as well and pass appropriate orders within a period of three weeks from the date of receipt of copy of this order.

The writ petition is accordingly disposed of.

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(V.V.S.RAO,J)

28.10.2004.

pln

Note:

Office to dispatch copy by

30.10.2004.

(By order)

pln

To

1 The Principal Secretary, Municipal Administration and Urban

Development Department, Government of A.P., Secretariat

Buildings, Hyderabad.
2 The Director of Municipal Administration, Hyderabad.
3 The Collector and District Magistrate, Guntur.
4 The Commissioner, Mangalagiri Municipality, Mangalagiri, Guntur Dist.

5 2 CCs to the G.P. for Municipal Administration and Urban Development,

High Court Buildings, Hyderabad (OUT).

6 2 CD copies.